IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11096 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHESHBHAI RAMANBHAI PATEL

Versus

SPL LAND ACQUISITION OFFICER

Appearance:

1. Special Civil Application No. 11096 of 1998
MR JITENDRA M PATEL for Petitioner
MR RC KODEKAR, AGP for Respondent No. 1
MR NA PANDYA for Respondent No. 3
NOTICE SERVED for Respondent No. 4
MR RAMNANDAN SINGH for Respondent No. 5
MR AJ PATEL for Respondent No. 6
RULE SERVED for Respondent No. 7

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 25/09/2000

ORAL JUDGEMENT

(Per: J.M. Panchal, J.)

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside order dated October 14/16, 1998 produced at Annexure P to the petition passed by Special Land Acquisition Officer, Unit No.1, Vadodara whereby prayer made by the petitioner to make reference to the court under Section 30 of the Land Acquisition Act, 1894 is rejected. The petitioner has further prayed to direct the Respondent No.1 to refer the application submitted by the petitioner under Section 30 of the Land Acquisition Act to the District Court for appropriate orders. The petitioner has also prayed to direct the Respondent No.5 i.e. Bhartiben Ashokbhai Parikh as well as Respondent No.6 i.e. Rashmikant Jayashanker Bhatt to redeposit the amount of compensation disbursed to them by the Special Land Acquisition Officer, Unit No.1, Vadodara on October 16, 1998.

2. Block No.779 - Revenue Survey No.1121/1 admeasuring 24 acres 2 gunthas of village Dumal, Taluka and District Vadodara originally belonged to Rajendra Kapilrai Bhatt. The petitioner claims that he had purchased the said land by Registered Sale Deed dated October 29, 1994 from Mr. M.S. Patel who was power of attorney holder of Rajendrakumar Kapilrai Bhatt i.e. the respondent No.3. A copy of the sale deed dated October 29, 1994 is produced by the petitioner at Annexure A to the petition whereas copy of power of attorney dated February 16, 1991 executed by Rajendrakumar Kapilrai Bhatt in favour of Manharbhai Sanabhai Patel is produced at Annexure A-1 to the petition. According to the petitioner, on the date of execution of sale deed, the original owner Rajendra Kapilrai Bhatt had received a sum of Rs.20,000/- in cash from the petitioner and the Respondent No.3 had issued receipt for the same in his own handwriting. A copy of the receipt dated October 29, 1994 issued by Respondent No.3 is produced by the petitioner at Annexure A-2 to the petition. According to the petitioner, the Respondent No.3 i.e. Rajendra Kapilrai Bhatt had also declared on oath on January 10, 1997 that the land was transferred by his power of attorney holder Manharbhai S. Patel with his consent to the petitioner by executing sale deed dated October 29, 1994 and that he had never cancelled power of attorney executed by him in favour of Manharbhai nor had given

either oral or written notice for cancellation of power of attorney. The affidavit sworn by the Respondent No.3 on January 10, 1997 is produced by the petitioner at Annexure A-3 to the petition. The case of the petitioner is that Mutation Entry No.4452 dated August 22, 1995 was also made in the revenue record reflecting the transaction in favour of the petitioner but as it was objected to, the Mamlatdar did not certify it which was challenged by the petitioner in RTS proceedings. A copy of the Mutation Entry No.4452 dated August 22, 1995 is produced by the petitioner at Annexure B to the petition. The sale deed which was executed on October 29, 1994 in favour of the petitioner was presented before the Registrar for registration on July 28, 1995 and was accordingly registered. The Registration Certificate issued by the Sub-Registrar, Vadodara is produced by the petitioner at Annexure C to the petition. The claim advanced by the petitioner is that though the petitioner had purchased land in dispute on October 29, 1994 from the power of attorney holder of Respondent No.3, the Respondent No.3 had again sold the land to deceased Vaghjibhai Bhagvanbhai by sale deed dated November 24, 1994 for a consideration of Rs.1,80,000/-. A copy of the Index Certificate mentioning the said transaction is produced by the petitioner at Annexure D to the petition. According to the petitioner, the Respondent No.3 had no right to sell the land in question to deceased Vaghjibhai Bhagvanbhai as the said land was already sold to the petitioner by his power of attorney holder on October 29, 1994 and therefore, the said transaction in favour of deceased Vaghjibhai was illegal, more particularly when deceased Vaghjibhai was not an agriculturist within the meaning of the term "agriculturist", as defined under Bombay Tenancy and Agricultural Lands Act, 1948. The petitioner has stated in the petition that deceased Vaghjibhai Bhagvanbhai expired on December 1, 1994 and after his death, his heirs and legal representatives transferred the land in question in favour of Respondents No.6 and 7 by sale deed dated May 9, 1995 for a consideration of Rs.2,16,484/-. Further, what is stated by the petitioner in the petition is that the original Respondent No.3 resold half portion from Block No.779 on August 8, 1995 to Respondent No.5 for a consideration of Rs.1,39,285/-. In the meantime, a proposal was made to the State Government to acquire Block No.779 and other lands of village Dumal for public purpose of loading facility of trucks of Indian Oil Corporation. On scrutiny of the said proposal, the State Government was satisfied that Block No.779 of village Dumal was likely to be needed for the said public purpose. Therefore, a Notification under Section 4(1) of the Land Acquisition

Act, 1894 was issued which was published in the Official Gazette on November 23, 1995. A copy of the Notification published under Section 4(1) of the Act is produced by the petitioner at Annexure E to the petition. Those whose names were reflected in revenue records were served with notices under Section 4 of the Act and they had filed their objections against the proposed acquisition. After considering the objections filed by interested persons, the Special Land Acquisition Officer, Unit No.1, Vadodara had forwarded his report to the State Government, as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that Block No.779 alongwith other lands which were specified in the Notification published under Section 4(1) of the Act were needed for the public purpose of loading facilities of trucks of Indian Oil Corporation. Therefore, a declaration under Section 6 of the Act was made which was published in the Official Gazette on March 6, 1996. A copy of the declaration made under Section 6 of the Act is produced by the petitioner at Annexure F to the petition. According to the petitioner, the petitioner had addressed representation dated April 8, 1996 to the Land Acquisition Officer pointing out inter alia that as he was the lawful owner of the disputed land, he was entitled to compensation. A copy of the letter dated April 8, 1996 addressed by the petitioner to the Collector and Special Land Acquisition Officer is produced by the petitioner at Annexure G to the petition. The petitioner has averred that he had addressed another letter dated January 15, 1997 to the competent authority stating that no notice was given to him in the proceedings relating to acquisition of the land in question and that he should be permitted to participate in the proceedings. The petitioner has stated that he received notice from the Special Land Acquisition Officer, Unit No.1, Vadodara pursuant to which he remained present before the said officer on July 3, 1998 and submitted his objections in writing stating that as he had filed Regular Civil Suit No.2383 of 1995 against the original owner of the land i.e. Respondent No.3, as well as Collector and the State Government, he should be heard before making the award. A copy of the objections submitted by the petitioner on July 3, 1998 is produced by the petitioner at Annexure I to the petition. The petitioner has claimed that pursuant to the objections referred to above, the petitioner was called upon by the Special Land Acquisition Officer to remain present on July 10, 1998 by a letter dated July 6, 1998 and the petitioner had submitted his objections in writing on July 10, 1998 mentioning that only he was entitled to get entire amount of compensation relating to

Block No.779 of village Dumal. A copy of the objections dated July 10, 1998 is produced by the petitioner at Annexure J to the petition. According to the petitioner, he apprehended at the time of hearing of the matter before the Special Land Acquisition Officer, Unit No.1, Vadodara on July 10, 1998 that the Special land Acquisition Officer would not accept objections submitted by the petitioner and was determined to give compensation to Respondents No.6 and 7 and not inclined to make reference to the court, as contemplated by the provisions of the Act and therefore, he filed Special Civil Application No.5614 of 1998 in the High Court claiming certain reliefs against Special Land Acquisition Officer. The petition was disposed of by Division Bench comprising Mr. K.G. Balakrishnan, CJ (as he then was) and J.M. Panchal, J. on July 22, 1998 in the following terms:

> "Steps are being taken to acquire land comprised in Block Nos. 774, 778 and 779. Petitioner herein claims that he is the true owner of the land comprised in Block No.779. He claims that his land was sold to him by a registered sale deed by the power-of-attorney holder of the true owner, namely, the 3rd respondent. The petitioner filed objection before the Land Acquisition Officer, claiming compensation. Petitioner received notice dated 6.7.1998 for making submissions. Petitioner apprehends that the Award will be passed in favour of respondents Nos.6 and 7 and the petitioner will be left without any remedy. In view of the submission made by the petitioner, first Respondent, Special Land Acquisition Officer, Unit-I is directed to consider and dispose of the application dated 3.7.1998 filed by the petitioner and objection, if any, filed by him having due regard to Sections 18 and 30 of the Land Acquisition Act. Petition stands disposed of accordingly."

3. It is evident from the above quoted order of the High Court that the Special Land Acquisition Officer, Unit No.1, Vadodara was directed to consider and dispose of the application dated July 3, 1998 filed by the petitioner and objection, if any, filed by him having due regard to Sections 18 and 30 of the Act. The petitioner has claimed in the petition that the order of the High Court was produced before the Special Land Acquisition Officer, Unit No.1, Vadodara on July 30, 1998 but it was declared by the said officer that he had already made award on June 8, 1998 and therefore, an application dated August 1, 1998 was submitted by the advocate of the

petitioner for obtaining copy of the said award which was received on August 4, 1998. The petitioner has mentioned that as the Special Land Acquisition Officer had made his award on June 8, 1998 an application dated August 14, 1998 was submitted by the petitioner seeking reference to the court either under Section 18 or Section 30 of the Act. A copy of the said application is produced by the petitioner at Annexure L to the petition. The petitioner has averred that between August 12, 1998 and October 13, 1998, several dates were fixed for hearing and the last date of hearing was October 13, 1998. According to the petitioner, on September 21, 1998 he had asked for supply of copies of certain documents which were made available to him on October 13, 1998 and on perusal of the record, the petitioner came to know that the Special Land Acquisition Officer had not acted in accordance with law nor maintained Rojkam properly and therefore, an application dated October 13, 1998 was submitted by the petitioner to the Collector and the State Government for transferring the case from Special Land Acquisition Officer, Unit No.1, Vadodara to any other officer. A copy of the said transfer application is produced by the petitioner at Annexure N to the petition. The grievance made by the petitioner is that though the competent authority had not passed any orders on application dated October 13, 1998 seeking transfer of the case, the Special Land Acquisition Officer, Unit No.1, Vadodara rejected the application submitted by the petitioner under Section 30 of the Act by order dated October 16, 1998 which is antedated as October 14, 1998. According to the petitioner, the Special Land Acquisition Officer, Unit No.1, Vadodara had called him in his office on October 15, 1998 for exploring the possibility of compromise and therefore, on October 14, 1998 no order was passed by the Special Land Acquisition Officer, Unit No.1, Vadodara rejecting the application submitted by the petitioner under Section 30 of the Act but, in fact, the order was passed on October 16, 1998 rejecting the said application. The petitioner has asserted in the petition that the order passed by the Special Land Acquisition Officer, Unit No.1, Vadodara is malafide as well as biased one and therefore, should be set aside. According to the petitioner, sale deed in favour of the petitioner is first in point of time and as the petitioner is the absolute owner of the disputed property, the dispute as to the title of the acquired land ought to have been referred to court under Section 30 of the Act. The petitioner has mentioned that in view of the irregularities committed by the Special Land Acquisition Officer, Unit No.1, Vadodara chargesheet is issued against him for passing award in Compensation Case No.2

of 1995 on the application of the petitioner and as the said officer has illegally rejected the application submitted by the petitioner under Section 30 of the Act, the order impugned in the petition deserves to be set aside. Under the circumstances, the petitioner has filed present petition and claimed reliefs to which reference is made earlier.

4. Mr. Rashmikant Jayashanker Bhatt, Respondent No.6 has filed reply affidavit controverting the averments made in the petition. In the said reply, it is mentioned that the fact that application Exh.5 submitted by the petitioner in Regular Civil Suit No.2383 of 1995 was rejected by the Civil Court is not mentioned in the petition nor it is mentioned by the petitioner that he had also filed an application for interim relief in Special Civil Suit No.614 of 1998 which is pending in the Civil Court, Baroda and that ex-parte interim relief which was granted in favour of the petitioner was later on vacated after hearing the parties. Thus, in the reply, it is emphasised that the petitioner has suppressed material facts from the court and therefore, the petition should be summarily dismissed. According to Respondent No.6, Rajendra Kapilrai Bhatt who was original owner of Block No.779 had executed an agreement to sell the land on February 16, 1991 in favour of one Manharbhai S. Patel who happens to be brother-in-law of the petitioner for a consideration of Rs.3,43,825/- and had also executed on the same day, a power of attorney in favour of Manharbhai S. Patel which was subsequently cancelled on October 29, 1993 and therefore, Manharbhai S. Patel who had no title to the property could not have sold the property to the petitioner and conferred a better title than what he had. The Respondent No.6 has pointed out in the reply that Manharbhai S. Patel who is brother-in-law of the petitioner had executed sale deed dated October 29, 1994 in favour of his brother-in-law i.e. the petitioner for a total consideration of Rs.96,000/- only though he himself had agreed to purchase the said property for a sum of Rs.3,43,825/-. After emphasising that the petitioner failed in his attempt to get the property in question mutated in his name in the revenue record, what is stated by the Respondent No.6 is that the owner of the land Ravindra Kapilrai Bhatt being owner of the property had validly executed sale deed on November 24, 1994 in favour of Vaghjibhai whose heirs and legal representatives had sold the land to Respondents No.6 and 7. The Respondent No.6 has maintained in the reply that pursuant to the sale deed, Mutation Entry was made in his name which is approved by the Mamlatdar and the Prant Officer in accordance with statutory rules but

the petitioner has filed an Appeal before the Collector which is pending. The Respondent No.6 has produced at Annexure VI with his reply a copy of the order dated October 16, 1996 passed by the Learned 6th Joint Civil Judge, Senior Division, Vadodara below Exh.5 in Regular Civil Suit No.2383 of 1995 and pleaded that in view of the said order, the petitioner is not entitled to the reliefs claimed in the petition. According to Respondent No.6, possession of the suit land was never handed over to Manharbhai or anyone else by the original owner and as power of attorney executed in favour of Manharbhai was cancelled by the original owner, the Special Land Acquisition Officer, Unit No.1, Vadodara was justified in rejecting the application submitted by the petitioner under Section 30 of the Act. The Respondent No.6 has also maintained in the reply that order passed by the Land Acquisition Officer refusing to refer the matter under Section 30 to the court cannot be made a subject matter of challenge in a petition filed under Article 226 of the Constitution and therefore also the petition should be dismissed.

5. Mr. Rajendra Kapilrai Bhatt, the Respondent No.3 has filed an affidavit-in-reply dated February 2, 1999 stating inter alia that he had executed an agreement to sell on February 16, 1991 in favour of Manharbhai S. Patel who happens to be brother-in-law of the petitioner for a consideration of Rs.3,43,825/- and had also executed a power of attorney in favour of Manharbhai S. Patel but the same was cancelled after service of notice dated October 29, 1993 and that Manharbhai S. Patel had no authority to convey the property to the petitioner. The Respondent No.3 who is original owner of the property has asserted that he being the owner of the property had the right to sell the same to Vaghjibhai Bhagvanbhai Patel and sale deed dated November 24, 1994 executed by him in favour of deceased Vaghjibhai Bhagvanbhai was valid. According to the Respondent No.3, he had directly sold the land in question to Vaghjibhai Bhagvanbhai Patel by registered sale deed after power of attorney executed by him in favour of Manharbhai S. Patel was cancelled. Further what is averred by the Respondent No.3 is that Manharbhai S. Patel had no authority to deal with the land in question after the cancellation of power of attorney executed in his favour and therefore, the petition should be rejected in limine. The petitioner has filed affidavit-in-rejoinder to affidavit-in-replies filed by the Respondents No.6 and 3. He has refuted the claims advanced in those replies and maintained that he is entitled to the reliefs claimed in the petition.

6. Mr. M.H. Gajre, Land Acquisition Officer, Unit No.1, Vadodara has filed reply affidavit on behalf of Respondents No.1 and 2 stating inter alia that the sale deed dated October 29, 1994 executed in favour of the petitioner by power of attorney holder of original owner after cancellation of the same is not legal and does not confer any title on the petitioner. In the reply, the Land Acquisition Officer has claimed that sale in favour of Respondent No.5 i.e. Smt. Bhartiben Ashokbhai Parikh was prior to the publication of Notification under Section 4(1) of the Act and therefore, the decision of the Special Land Acquisition Officer not to refer the matter to the court, as demanded by the petitioner cannot be said to be illegal. This officer in his reply has given particulars about different dates of hearing and claimed that sufficient opportunity was given to the petitioner to represent his case before the Special Land Acquisition Officer and therefore, the decision impugned in the petition should not be regarded as bad in law. What is stressed in the reply is that the objection submitted by the petitioner was decided by the Special Land Acquisition Officer in terms of direction of the High Court and therefore, the claim of the petitioner that the Special Land Acquisition Officer has exceeded his jurisdiction should not be entertained.

7. Mrs. Bhartiben Ashokbhai Parikh who is Respondent No.5 has filed her reply stating that by deed dated August 14, 1988, the Respondent No.3 who was original owner of Block No.779 had sold portion of the land to her for a consideration of Rs.1,27,285/- and as part owner of Block No.779, she was entitled to receive compensation determined by the Special Land Acquisition Officer, Unit No.1, Vadodara. The Respondent No.5 has referred to certain facts relating to sale of portion of land in her favour by the Respondent No.3 and after stating that the Respondent No.3 had received Rs.5,715/more than the agreed amount of consideration, has claimed that the Respondent No.3 had also executed one irrevocable power of attorney in favour of her husband Ashok Manilal Parikh. The Respondent No.5 has also averred in her reply that the petitioner having no title to the property, his claim is rightly rejected by the Special Land Acquisition Officer and the petition should be rejected.

8. Mr. Pradip B. Azad, the Respondent No.1A who was Special Land Acquisition Officer, Unit No.1, Vadodara and had passed the order which is impugned in the petition has filed affidavit-in-reply dated March 3, 1999 and mentioned that he had decided the application

submitted by the petitioner strictly in accordance with relevant provisions of the law. After referring to the judgment of the Supreme Court on the point, Mr. Azad has claimed that his decision not to make reference to the court is legal and as he has acted bonafide, the petition should be dismissed. Mr. Azad has denied the allegation made by the petitioner that he had received an amount of Rs.15 to 20 lacs from the claimants, as claimed by the petitioner and called upon the petitioner to disclose source of such a baseless information. After emphasising that the wild allegations levelled against him have no basis, Mr. Azad has stated that these allegations are levelled by the petitioner to invoke sympathy of the court and therefore the petition should be dismissed. Mr. Pradip Bipinbhai Azad has filed another affidavit dated July 28, 1999 controverting all the allegations levelled against him by the petitioner in the petition. Mr. Azad has stated in his reply that the revenue records did not indicate that the petitioner was owner of the land and therefore, no notice was issued to him after publication of Notification under Section 4(1) of the Act. According to Mr. Azad, Notification issued under Section 4(1) of the Act was not only published in the Official Gazette but was also published in Gujarati daily as well as pasted at the office but the petitioner had never filed any objection to the Notification published under Section 4(1) of the Act. In the said reply, it is stated that at the time when Notification under Section 4(1) of the Act was published, the petitioner was not registered owner of the land in question and his claim regarding ownership was also not entertained by the Mamlatdar, Vadodara as well as Deputy Collector (Prant), Vadodara when proceedings initiated by him relating to mutation entry were rejected by the said authorities. In this affidavit, Mr. Azad has referred to order passed by Civil court in Civil Suit No.2383 of 1995 and emphasised that as the petitioner failed to establish his claim that he was the owner of the land, he was not granted interim relief as prayed for and discretion exercised by him under Section 30 of the Act cannot be regarded as illegal or without jurisdiction in any manner. After pointing out that the petitioner has filed another suit being Civil Suit No.614 of 1998 in the court of Learned Civil Judge, Senior Division, Vadodara it is mentioned that even in the subsequent suit, the petitioner could not get interim relief and therefore, disbursement of compensation to the claimants pursuant to award dated June 8, 1998 is not illegal. According to Mr. Azad, he had called the petitioner on 28 different occasions from July 3, 1998 to October 8, 1998 to prove his case and when the petitioner was asked on October 8, 1998 to

submit his final written statement before October 12, 1998, he filed application for transfer of case and submitted the same in the Registry of Collector's office, Vadodara but did not hand over the copy of the said application in person either to him or to the Collector. Mr. Azad has maintained that in view of direction given by the High Court, he was duty bound to consider the application submitted by the petitioner under Section 30 of the Act and therefore, the order passed by him cannot be treated as having been passed in excess of jurisdiction. After strongly denying the motives attributed to him that he has favoured the respondents no.5 and 6, Mr. Azad has stated that more than sufficient opportunity was given to the petitioner before passing the impugned order and maintained that he has acted bonafide while exercising statutory powers. According to Mr. Azad, the impugned order was passed on October 14, 1998 and the Collector, Vadodara had also seen the order and signed on the file submitted before him on October 14, 1998 but due to slip, the typist had mentioned the date of order to be October 16, 1998 which was rectified immediately and therefore, the claim made by the petitioner that he had antedated the order or that he had not passed the order on October 14, 1998 has no substance. After highlighting the fact that he had given 28 adjournments from July 3, 1998 to January 8, 1998 to the petitioner to prove his case, Mr. Azad has maintained that he had not made undue haste in passing the order and the copy of the order was sent to the persons concerned after the same was perused and file was signed by the Collector. Mr. Azad has mentioned in his affidavit that the amount of compensation was disbursed as per the routine procedure carried out in other cases by preparing a challan and the allegation made by the petitioner that there was a secret agreement between him and the respondent no.6 has no factual basis. It is also stated by Mr. Azad in his affidavit that as the petitioner had not remained present in his office on October 16, 1998 the copy of the order was sent to him by post but due to Diwali holidays, the order could not reach the petitioner immediately. The claim advanced by Mr. Azad in his affidavit is that he was never transferred by the Government pursuant to application of the petitioner but was transferred because he himself had demanded his transfer due to ill-health of his father. Mr. Azad has maintained that as Land Acquisition Officer, he has passed the impugned order on the basis of documents and inquiry, as well as after hearing the parties and therefore the petition should be dismissed.

9. The petitioner has filed further

affidavit-in-rejoinder and reiterated what is stated by him in the petition as well as affidavit-in-rejoinder dated April 1, 1999. Another affidavit in rejoinder is also filed by the petitioner on August 30, 2000 by which he has controverted the averments made by Mr. M.H. Gajre, Land Acquisition Officer, Unit No.1, Vadodara in his affidavit-in-reply.

10. Mr. Rajendra Kapilrai Bhatt, Respondent No.3 has filed affidavit-in-reply dated September 20, 2000. In this reply, the respondent no.3 has taken a somersault by stating that he had signed certain documents produced by the petitioner as well as respondents no.6 and 7 without looking at the contents or without verifying the contents as he was in dire need of money. In this reply, the respondent no.3 has claimed that the amount of compensation payable is approximately determined to be Rs.73,34,469/- and therefore, say of the petitioner or the respondents no.6 and 7 that he had agreed to sell the land for negligible price should not be upheld by the court.

11. Mr. J.M. Patel, learned counsel for the petitioner submitted that Mr. Pradip B. Azad who was Special Land Acquisition Officer, Unit No.1, Vadodara has acted malafide because though the impugned order was passed on October 16, 1998 it was antedated to show that he has passed order on October 14, 1998 with a view to favouring unlawfully the respondents no.6 and 7 and therefore, the order should be set aside. The learned counsel for the petitioner pleaded that chargesheet is issued against Mr. Azad for passing award in Compensation case No.2 of 1995 on the application of the petitioner and when the State Government is prima facie satisfied that Mr. Azad as Special Land Acquisition Officer, Unit No.1, Vadodara had acted illegally to help the respondents, his decision which is impugned in the petition deserves to be set aside. Referring to sale deed dated October 29, 1994 executed by power of attorney holder of original owner of Block No.779, the learned counsel contended that sale deed in favour of the petitioner is first in point of time which was confirmed by the original owner by filing affidavit and in view of the serious disputes raised by the petitioner regarding title to the property and apportionment of amount of compensation, reference as contemplated by Section 30 of the Act ought to have been made by the Special Land Acquisition Officer to the court concerned and therefore, the petitioner should be granted reliefs claimed in the petition. What was emphasised was that the different documents which are produced on the record of the

petition by the petitioner show that the petitioner is one of the interested persons and therefore, application submitted by him under Section 30 of the Act ought to have been accepted by the Special Land Acquisition Officer. It was stressed that the Special Land Acquisition Officer has no jurisdiction or authority to decide the disputed questions of title to the property in question and therefore, instead of deciding questions of title to the property, a reference, as contemplated under Section 30 of the Act, ought to have been made to the concerned court. In support of his submissions, the learned counsel placed reliance on the decisions rendered in (1) Govindbhai Ambalal Patel and another vs. State of Gujarat [1995 (1) GCD 132 (Gujarat)], (2) Arulmighu Lakshminarasimhaswamy Temple, Singirigudi vs. Union of India and Others [(1996) 6 SCC 408] and (3) State of Mizoram vs. Biakchhawna [(1995) 1 SCC 156]

12. Mr. A.J. Patel, learned counsel for Respondent No.6 pleaded that the petitioner in the petition has not disclosed that application Exh.5 submitted by him for interim relief in Regular Civil Suit No.2383 of 1995 was rejected by the learned Judge nor reference is made to the order by which ex-parte interim relief granted below application Exh.5 filed in Special Civil Suit No.614 of 1998 was vacated and as the petitioner has suppressed material facts from the court and not approached the court with clean hands, the petition filed under Article 226 of the Constitution should be dismissed. According to the learned counsel for Respondent No.6, Manharbhai Sanabhai Patel had never become owner of the property and as power of attorney executed in his favour was cancelled by the original owner, he had no authority to convey the property to the petitioner and therefore, the petitioner has no title to the property. Placing reliance on the decision of Supreme Court in Dr. G.H. Grant vs. State of Bihar [AIR 1966 Supreme Court 237], the learned counsel pleaded that the Collector is, under Section 30, not enjoined to make a reference and he may relegate the person raising the dispute as to apportionment or as to the person to whom compensation is payable, to agitate the dispute in a suit and pay the compensation in the manner declared by his award and as the petitioner has filed suit for establishing his title to the property in a competent Civil Court, the order impugned in the petition should not be interfered with. It was maintained that in view of the direction of the High Court, the Special Land Acquisition Officer, Unit No.1, Vadodara was justified in considering the objections raised by the petitioner and therefore, it cannot be said that while passing impugned order, he had exceeded

jurisdiction vested in him. The learned counsel for the Respondent No.6 read out the whole order passed by the learned Civil Judge, Senior Division, Vadodara below Exh.5 in Regular Civil Suit No.2383 of 1995 and submitted that in view of the observations made by the competent Civil Court, the Special Land Acquisition Officer was justified in rejecting the objections submitted by the petitioner and relegating him to the remedy already availed of. According to the learned counsel, the questions raised in the petition are going to be decided by the Civil Court in a properly constituted suit which is filed by the petitioner himself and therefore, the petition should be dismissed.

13. Mr. N.A. Pandya, learned counsel for the Respondent No.3 contended that the Respondent No.3 is entitled to receive the whole amount of compensation and as there are serious disputes relating to title to the property, reference, as demanded by the petitioner, ought to have been made by the Special Land Acquisition Officer. Mr. R.C. Kodekar, learned Assistant Government Pleader submitted that consideration of the different pleas raised by the petitioner in the application submitted under Section 30 of the Act and rejection of the same by the Special Land Acquisition Officer is in consonance with the direction issued by the High Court in the petition which was filed by the petitioner as well as scheme of the Act and therefore, the impugned order should be upheld by the court. Mr. K.J. Mekwan, learned counsel for the Respondent No.1A i.e. Mr. Pradip B. Azad who had passed the impugned order extensively read out affidavit-in-reply filed by Mr. Azad on July 28, 1999 and submitted that as allegations levelled against Mr. Azad are baseless and as a just order is passed by Mr. Azad, in discharge of his statutory duties, the petition should be dismissed.

14. We have heard the learned counsel for the parties at length and considered the documents forming part of the petition as well as the authorities cited at the bar. The submission that Mr. Pradip B. Azad who was, at the relevant time, Special Land Acquisition Officer, Unit No.1, Vadodara, had acted malafide with a view to favouring Respondents No.6 and 7 as well as had antedated his order and therefore, the reliefs claimed in the petition should be granted is devoid of merits. The reply affidavit filed by Mr. Azad would show that as many as 28 adjournments were granted from July 3, 1998 to October 8, 1998 to enable the petitioner to prove his case. According to Mr. Azad, he had told the petitioner on October 8, 1998 to submit his final written statement

latest by October 12, 1998 and therefore, on October 13, 1998, the petitioner had filed an application before the Collector with a request to him to transfer the case to another Land Acquisition Officer. The affidavit which is filed by Mr. M.H. Gajre, Land Acquisition Officer, Unit No.1, Vadodara shows that the petitioner had submitted an application in the Registry Branch of the Collector's office for transfer of the case and neither it was given to the concerned officer directly nor any representation was made to the Collector. Moreover, according to Mr. M.H. Gajre, the Collector has no power to transfer the case from one Land Acquisition Officer to another and therefore submission of the application by the petitioner for transfer of the case was of no consequence. This is evident from the averments made by Mr. Gajre in paragraph 17 of his reply. Mr. Azad has also stated in his reply affidavit that the petitioner had submitted transfer application in the Registry Branch of the Collector's office, Vadodara and that it was not given to him by the petitioner in person. As observed earlier, Notification under Section 4(1) of the Act was published on November 23, 1995 and revenue records relating to Block No.779 of village Dumal never indicated that the petitioner was owner of the said land and therefore, non-issuance of notice to the petitioner cannot be regarded as illegal or malafide. It is relevant to notice that in Special Civil Application No.5614 of 1998, the Division Bench of the High Court by order dated July 22, 1998 had directed the Special Land Acquisition Officer to consider and dispose of the application submitted by the petitioner on July 3, 1998 and objections, if any, having due regard to Sections 18 and 30 of the Land Acqusition Act. Under the circumstances, the findings recorded by the Special Land Acquisition Officer cannot be regarded as having been made in excess of the jurisdiction vested in him. Before the Special Land Acquisition Officer, the parties had produced copy of order dated October 6, 1996 rendered by Learned Civil Judge, Senior Division, Vadodara below Exh.5 in Regular Civil Suit No.2383 of 1995 and therefore, it was observed by the Special Land Acquisition Officer that the petitioner had failed to prove prima facie case before the Civil Court and was not entitled to reference under Section 30 of the Act. Though the petitioner has stated in the petition that Mr. Azad had received a sum of Rs.15-20 lacs from the Respondents No.6 and 7, the petitioner has neither disclosed the source of information nor produced cogent evidence to substantiate this claim. The claim of the petitioner that Mr. Azad was transferred because of the application submitted by the petitioner also does not appear to be correct because

Mr. Azad in paragraph 12 of his reply dated July 28, 1999 in terms stated that he was transferred on his own request because his father was ill and not because of allegation levelled by the petitioner. As explained by Mr. Azad in his affidavit, he had passed impugned order on October 14, 1998 and not on October 16, 1998 but due to mistake of typist date of order was mentioned to be October 16, 1998 which was subsequently rectified. This claim of Mr. Azad deserves acceptance because the Collector had also signed the file submitted before him on October 14, 1998 after perusing the order of Mr. Azad. Moreover, the learned counsel for Mr. Azad has stated at the bar that the explanation offered by Mr. Azad sought by the Government with reference to passing of award in Compensation Case No.2 of 1995 has been accepted by the Government and at present, Mr. Azad is discharging duties as Land Acquisition Officer, Godhra under Sardar Sarovar Project. Merely because the Special Land Acquisition Officer did not accede to the request of the petitioner to make reference, disbursement of compensation by the said officer to the claimants in terms of award cannot be regarded as an act favouring Respondents No.6 and 7. Mr. Azad has also explained the circumstances in which the intimation about the impugned order reached the petitioner late. On overall view of the matter, we are satisfied that Mr. Azad as Special Land Acquisition Officer, Unit No.1, Vadodara did not act malafide or with a view to favouring Respondents No.6 and 7 nor had antedated his order and therefore, the petitioner is not entitled to reliefs on the ground that the order was passed by the concerned officer malafide.

15. Before we go into the merits of the contentions raised on behalf of the learned counsel for the parties, we will first deal with the preliminary objection raised by the learned counsel for the Respodent No.6 to the effect that the petitioner has suppressed material facts and therefore, the petition should be dismissed. It is true that one who approaches the High Court under Article 226 of the Constitution should make full and true disclosure of all relevant facts. However, the petitioner has referred to filing of Regular Civil Suit No.2383 of 1995 and Special Civil Suit No.614 of 1998 in paragraph 21(4) of the petition. In the impugned order also, the Special Land Acquisition Officer has made reference to order dated October 6, 1996 which was passed by Civil Court below Exh.5 in Regular Civil Suit No.2383 of 1995. The interim orders passed by the court may be relevant for grant of interim relief in the petition but in the present petition, no interim relief was granted to the petitioner. Moreover, the respondents by filing

detailed affidavit have brought to the notice of the court all relevant facts. Having regard to the facts of the case, we are of the opinion that the petitioner need not be non-suited on the ground that he has suppressed material facts from the court. Therefore, we do not find substance in the preliminary objection raised by the learned counsel for the Respondent No.6 and the same is hereby rejected.

16. For an appropriate appreciation of the question at issue, it would be relevant to notice the scheme envisaged by Sections 11, 18 and 30 of the Act. A reading of Section 11 shows that while passing the award, the Land Acquisition Officer has to inquire into (1) the objections submitted by the persons interested to the measurements made under Section 8; (2) the value of the land on the date of Notification under Section 4(1) of the Act and (3) the respective interests of the persons claiming the compensation. After such inquiry, he has to make an award under his hand stating (1) the true area of the land, (2) the compensation determined by him and (3) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, whose claims, he had information whether or not they have respectively appeared before him. The power vested in the Collector to inquire into the respective claims necessarily means that he has the power to inquire into and determine the disputed claims and disputed questions of title as well. It is true that the decision rendered by him whether on the question of area of the land, the quantum of compensation or on the question of apportionment is not final and he is under an obligation to make reference to Civil Court with respect to aforesaid questions, if an application in writing is made to him under and in accordance with Section 18 of the Act. Once an application is made to him to make a reference to Civil Court under Section 18, he has no discretion in the matter and he is bound to make such a reference. A reading of Section 30 makes it clear that he has a discretion either to go into the disputed questions of title and apportionment or to refer the same to Civil Court for decision under Section 30 or to relegate the parties to Civil Suit. In Dr. G.H. Grant vs. State of Bihar (supra), Notification under Section 4(1) of the Act was published on June 8, 1949 and the Collector had made award on March 25, 1952. On May 22, 1952, the land in question being part of an estate, vested in the State of Bihar by virtue of the Bihar Land Reforms Act. On October 15, 1952 a petition was filed by the State Government before the Collector claiming that compensation money awarded to the land owner was payable

to the State Government under the Notification issued under the Bihar Land Reforms Act and therefore, the dispute between the State and the land owner should be referred to court for decision under Section 30 of the Land Acquisition Act. A reference was accordingly made. The facts of the case show that other references were also made under Section 18 read with Section 30 of the Act. The learned District Judge rejected the State's claim and upheld the right of the land owner and other parties interested therein. Against the order of the learned District Judge, an appeal was filed by the State before the High Court. The High Court took the view that title in the land passes only when its possession is taken and since the title in the land had come to vest in the State before the possession was taken, the State was entitled to the compensation and that the Collector was justified in making a reference under Section 30 of the Act at the instance of the State. When the matter came up before the Supreme Court, the contentions raised were (1) that the Collector had no authority to refer the matter under Section 30 after he had apportioned the amount of compensation under Section 11 and (2) that the State government was not a person interested within the meaning of Land Acquisition Act and could not have applied for a reference under Section 30. The Supreme Court considered the scheme envisaged by Section 18(1), 30 and 31 of the Act and has made following pertinent observations in paragraphs 13, 14 and 19 of the reported judgment which are as under:

"(13) There are two provisions, Ss. 18(1) and 30, which invest the Collector with power to refer to the Court a dispute as to apportionment of compensation or as to the persons to whom it is payable. By Sub-s. (1) of S.18 the Collector is enjoined to refer a dispute as to the apportionment, or as to title to receive compensation, on the application within the time prescribed by Sub-s. (2) of that Section of a person interested who has not accepted the award. Section 30 authorises the Collector to refer to the Court after compensation is settled under S.11, any dispute arising as to apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable. A person shown in that part of the award which relates to apportionment of compensation, who is present either personally or through a representative, or on whom a notice is served under Sub-s. (2) of S.12, must, if he does not accept the award, apply to the Collector within

the time prescribed under S.18(2) to refer the matter to the Court. But a person who has not appeared in the acquisition proceeding before the Collector may, if he is not served with notice of the filing, raise a dispute as to apportionment or as to the persons to whom it is payable, and apply to the Court for a reference under S.30, for determination of his right to compensation which may have existed before the award, or which may have devolved upon him since the award. Whereas under S.18 an application made to the Collector must be made within the period prescribed by Sub-s. (2) Cl. (b), there is no such period prescribed under S.30. Again under S.18 the Collector is bound to make a reference on a petition filed by a person interested. The Collector is under S. 30 not enjoined to make a reference; he may relegate the person raising a dispute as to apportionment, or as to the person to whom compensation is payable, to agitate the dispute in a suit and pay the compensation in the manner declared by his award.

(14) We are unable to agree with the view expressed by the Mysore High Court in Boregowda v. Subbaramiah, AIR 1959 Mys 265, that if the Collector has made apportionment of the compensation money by his award his power to refer a dispute under S. 30 cannot be exercised. Clause (iii) of S.11 enjoins the Collector to apportion the compensation money among persons known or believed to be interested in the land; he has no discretion in the matter. Exercise of the power under S.30 to refer the dispute relating to apportionment or as to the persons to whom it is payable is, it is true, discretionary; the Collector may, but is not bound to exercise that power. It is however not predicated of the exercise of that power that the Collector has not apportioned the compensation money by his award. We are also unable to agree with the Mysore High Court that the power under S. 30 of the Land Acquisition Act has to be exercised on a motion within the period prescribed by S.18(2) of the Land Acquisition Act. In our judgment the powers exercisable by the Collector under S. 18(1) and under S.30 are distinct and may be invoked in contingencies which do not overlap.

(19) It was strongly pressed that under S.31 of the Land Acquisition Act the Collector is

> bound to tender payment of compensation awarded by him to the persons entitled thereto according to the award and that implied that a right in the amount of compensation arises to the person to whom compensation is directed to be paid under the award, and, therefore, the only persons who can raise a dispute under S.30 are those whose names are set out in the award. This contention stands refuted by the plain terms of S.30. The Collector is not authorised to decide finally the conflicting rights of the persons interested in the amount of compensation; he is primarily concerned with the acquisition of the land. In determining the amount of compensation which may be offered, he has, it is true, to apportion the amount of compensation between the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have appeared before him. But the scheme of apportionment by the Collector does not finally determine the rights of the persons interested in the amount of compensation; the award is only conclusive between the Collector and the persons interested and not among the persons interested. The Collector has no power to finally adjudicate upon the title to compensation; that dispute has to be decided either in a reference under S.18 or under S.30 or in a separate suit. Payment of compensation, therefore, under S.31 to the person declared by the award to be entitled thereto discharges the State or its liability to pay compensation (Subject to any modification by the Court), leaving it open to the claimant to compensation to agitate his right in a reference under S.30 or by a separate suit."

From the observations made by the Supreme Court in the above referred to paragraphs, it is manifest that a person who has not appeared in acquisition proceedings before the Land Acquisition Officer may, if he is not served with notice of the filing of the award, raise a dispute as to the apportionment or as to the persons to whom it is payable and apply to the Land Acquisition Officer for a reference to court under Section 30 for determination of his right to compensation which may have existed before the award or which may have devolved upon him since the award. An application under Section 18 of the Act must be made within the period prescribed by sub-section 2(b) of the Act but there is no such period prescribed for making application under Section 30. The

power exercisable by the Special Land Acquisition Officer under Section 18(1) and under Section 30 are distinct and should be invoked in contingencies which do not overlap. Again under Section 18, the Collector is bound to make a reference on a petition filed by a person interested whereas the Collector under Section 30 is not enjoined to make a reference and he may relegate the person raising a dispute as to apportionment or as to the person to whom compensation is payable to agitate the dispute in a suit and pay the compensation in the manner declared by his award. Exercise of the power under Section 30 which relates to the dispute relating to apportionment or as to the person to whom it is payable is discretionary. The Collector i.e. Land Acquisition Officer, may refer the dispute relating to apportionment or as to the person to whom it is payable to the Civil Court but is not bound to exercise that power. The Collector has no powers to finally adjudicate upon the title to compensation and that dispute has to be decided either in a reference under Section 18 or under Section 30 or in a separate suit. The decision of apportionment of compensation by the Collector does not finally determine the rights of the persons interested in the amount of compensation. The award is only conclusive between the Collector and the persons interested and not among the persons interested. Payment of compensation therefore, to the person declared to be entitled thereof discharges the State of its liability to pay compnsation subject to any modification by the court leaving it open to the claimant to agitate his right in a reference under Section 30 or in a separate suit.

17. Placing strong reliance on the decision of the Supreme Court in Arulmighu Lakshminarasimhaswamy Temple Singirigudi vs. Union of India and Others (supra), the learned counsel for the petitioner submitted that whenever there is dispute as to the title of the acquired lands, the Land Acquisition Officer has no option but to make a reference to the court under Section 30 of the Act to decide the dispute between the competent persons who set up rival title to the compensation and therefore, the course adopted by the Special Land Acquisition Officer should be disapproved. In that case, Notification under Section 4(1) of the Act was published on June 4, 1987 acquiring the land. After compliance of the notice under Sections 9 and 10 of the Act and inquiry, an award was made by the Land Acquisition Officer on February 7, 1990. The possession of the land acquired was thereafter taken on October 30, 1990. In these circumstances, the Supreme Court considered the question as to what was the procedure to be adopted in case of dispute as to the

title of land acquired under the Act. It was found by the Supreme Court that the learned Single Judge of the High Court had declared title of the petitioner in Writ Petition whereas the Division Bench had directed the Civil Court to decide the suit. The Supreme Court was of the opinion that both views were erroneous in law. According to the Supreme Court, the Land Acquisition Officer has to determine the extent of land, the persons entitled to compensation and the compensation to be determined under Section 23(1) of the Act but if he finds that there is any dispute as to the person entitled to receive the compensation he has to deposit the amount under Section 31 of the Act into the court to which reference would lie and on such a dispute having arisen, he has to make a reference to the court under Section 30 of the Act to decide between the competing persons who set up rival title to the compensation. The Supreme Court was of the view that the only legal course open was to issue direction to the Land Acquisition Officer to make a reference under Section 30 of the Act. Accordingly, while allowing the Appeal, the Land Acquisition Officer was directed to make reference to the court under section 30 of the Act. On careful examination of the facts of the case which was before the Supreme Court, we find that no order was passed by the Collector under Section 30 of the Act and petition was filed for establishing title to the property which was allowed by the learned Single Judge but the Division Bench of the High court had directed the Civil Court to decide the title. The facts of the reported decision of the Supreme Court do not indicate that any order was passed by the Collector under Section 30 of the Act relegating one of the parties to file a suit to establish title whereas in the present case, the Land Acquisition Officer has considered the contents of the application submitted by the petitioner in view of the direction of the High Court and held that the ultimate result would be governed by the outcome of the suit which is filed by the petitioner. The question as to which course can be adopted by the Land Acquisition Officer when an application under Section 30 is submitted was not considered by the Supreme Court and previous decision of the Supreme Court of larger Bench in Dr. G.H. Grant vs. State of Bihar (supra) was not brought to the notice of the Supreme Court. Therefore, we are of the opinion that on the basis of ratio decidendi in Arulmighu Lakshminarasimhaswamy Temple, Singirigudi vs. Union of India and Others (supra), the order impugned cannot be voided on the ground that in view of the dispute of title to the properties, the Land Acquisition Officer ought to have made reference to the court under Section 30 of the

Act.

18. The learned counsel for the petitioner submitted that the question before the Supreme Court in Dr. G.H. Grant's case was whether the dispute between the State and the land owner which was referred to the court for decision under Section 30 of the Act was proper and as the Supreme Court was never called upon to consider the question whether Section 30 vests discretion in the Collector in the matter of making reference or whether the Collector can direct the party to get the dispute decided in a separate suit, the said decision should not be followed, more particularly in view of the judgment of the Supreme Court in Arulmighu Lakshminarasimhaswamy Temple Singirigudi (supra). Placing reliance on the decisions rendered in (1) Mohd. Ayub alias Babu vs. Commissioner of Police, Ahmedabad and Others [1994 (1) GLR 589], (2) H.D. Sewak, Food Inspector vs. N.D. Vaghvani [1991 (2) GLH 615] and (3) The Ahmedabad Manufacturing and Printing Company Ltd. vs. Union of India and Others [1983 (1) GLR 1], the learned counsel submitted that the observations made by the Supreme Court in Dr. G.H. Grant's case cannot be treated as binding precedent when such a question did not fall for consideration and therefore, the order passed by the Special Land Acquisition Officer cannot be sustained on the basis of principle laid down in Dr. Grant's case. In our view, the contention raised by the learned counsel for the petitioner cannot be accepted because the question under consideration before the Supreme Court in Dr. Grant's case was about the scope and ambit of Section 30 of the Act. The question about the nature of power to be exercised by the Collector (Land Acquisition Officer) under Section 30 of the Act squarely arose for the consideration of the Supreme Court and observations made by the Supreme Court are in the nature of binding precedent. It is true that the decision of the Supreme Court is only an authority for what is actually decided and observations made therein should be restricted to the context in which they are made. But the facts of Dr. Grant's case which are noted in detail earlier would indicate that the scope of Section 30 of the Act squarely fell for the consideration of the Supreme Court and after examining precise question and scope of the power, the Supreme Court has ruled that the Collector is, under Section 30, not enjoined to make a reference and he may relegate the person raising a dispute as to apportionment or as to the person to whom compensation is payable, to agitate the dispute in a suit and pay the compensation in the manner declared by his award. The dictum of law laid down by the Supreme Court in Dr. Grant's case to the

effect that the Collector has no power to finally adjudicate upon the title to compensation and that dispute has to be decided either in a reference under Section 18 or under Section 30 or in a separate suit cannot be brushed aside on specious plea that that is not the ratio decidendi of the said case or that it was not necessary for the Supreme Court to hold so in view of the limited controversy before it. Therefore, in view of the principle laid down in Dr. Grant's case, we are of the opinion that no error was committed by the Special Land Acquisition Officer in directing the petitioner to get the disputes relating to property settled in the suit which is already instituted by the petitioner and which is pending before a competent Civil Court. The contention that in view of the decision of the Supreme Court in State of Mizoram (supra) on filing of application by the petitioner under Section 30 of the Act making of reference by the Collector is mandatory, cannot be accepted. In the said case, the Supreme Court has examined the scope of Section 18 of the Act and held that when an application is submitted by the claimant under Section 18 of the Act objecting to the award of compensation, making of reference by the Collector is mandatory. In the present case, the court is not concerned with the question whether any reference at the instance of the petitioner under Section 18 of the Act ought to have been made by the Special Land Acquisition Officer and therefore, the said decision is of no avail to the petitioner. Moreover, scope and ambit of Section 30 of the Act is not examined in the said reported decision of the Supreme Court. As held by the Supreme Court in Dr. Grant's case, powers of the Collector under Section 18(1) of the Act and Section 30 of the Act are distinct and therefore, on the basis of decision in the case of State of Mizoram (supra) no direction can be given to the Land Acquisition Officer to make reference under Section 30 of the Act, as is demanded by the petitioner.

19. The contention that even prima facie, the Special Land Acquisition Officer could not have adjudicated upon the title to compensation and therefore, the petition should be accepted is devoid of merits. As observed earlier, the petitioner himself had filed Special Civil Application No.5614 of 1998 and obtained directions against Special Land Acquisition Officer to consider his application dated July 3, 1998 having due regard to the provisions of Sections 18 and 30 of the Act. In view of the direction given by the High Court, it was incumbent upon the Special Land Acquisition Officer to consider the application submitted by the petitioner. The Special

Land Acquisition Officer could not have refused to go into the contents of application dated July 3, 1998 as it would have amounted to flouting the direction of the High Court. Moreover, as noted earlier, the Supreme Court in Dr. Grant's case has held that the Collector has no power to finally adjudicate upon the title to compensation. In fact, the order passed by the Special Land Acquisition Officer does not indicate that he has finally adjudicated upon the title to compensation. On the contrary, it is specifically mentioned in the impugned order that the question of title would be subject to the result of the suit which is already instituted by the petitioner in a competent Civil Court. Therefore, in our view the petitioner is not entitled to any relief on the ground that the Special Land Acquisition Officer has exceeded his jurisdiction in adjudicating upon the title to compensation.

20. The last submission that the Special Land Acquisition Officer ought to have deposited the amount determined by him as payable to the claimants in the court while relegating the petitioner to decision in the suit filed by him has also no merits. Such a course is required to be followed by the Special Land Acquisition Officer only if reference, as contemplated by Section 30 of the Act, is made to a court and not otherwise. The Supreme Court has in Dr. Grant's case [paragraph 13 of the reported decision] in terms held that the Collector is under Section 30, not enjoined to make a reference and he may relegate the person raising a dispute as to apportionment or as to the person to whom compensation is payable, to agitate the dispute in a suit and pay the compensation in the manner declared by his award. Therefore, the payment of compensation made by the Special Land Acquisition Officer in the manner declared by his award cannot be regarded as illegal. Moreover, the facts of the case would indicate that the petitioner himself had sought an injunction in two suits restraining the Special Land Acquisition Officer from making payment in the manner declared by his award and failed. Under the circumstances, the payment of compensation by the Special Land Acquisition Officer in the manner declared by his award would not make the impugned order vulnerable.

21. On overall view of the matter, we are satisfied that a just order is passed by the Special Land Acquisition Officer on the application which was submitted by the petitioner under Section 30 of the Act and no case is made out by the petitioner to interfere with the same in the present petition which is filed

under Article 226 of the Constitution. We may state that except the contentions which are mentioned in the earlier part of this judgment and which are dealt with, no other point has been urged by the learned counsel for the petitioner in support of the petition. The net result of the above discussion is that we do not find any substance in the petition and the petition is liable to be dismissed.

22. For the foregoing reasons, the petition fails and is dismissed. Rule is discharged with no orders as to cost.

(J.M. Panchal, J.)

(M.C. Patel, J.)

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